

**Flathead County**  
**Planning & Zoning**  
1035 1<sup>st</sup> Ave W, Kalispell, MT 59901  
Telephone 406.751.8200 Fax 406.751.8210



**CONDITIONAL USE PERMIT APPLICATION**

*Submit this application, all required information, and appropriate fee (see current fee schedule)  
to the Planning & Zoning office at the address listed above.*

**FEE ATTACHED \$** \_\_\_\_\_

**PROPOSED USE** (as described in the Flathead County Zoning Regulations):

see page 6

**OWNER(S) OF RECORD:**

Name: Douglas and Donna Miller Phone: 752-3609  
Mailing Address: 558 Sommers Stage Road  
City, State, Zip Code: Kalispell, MT 59901  
Email: \_\_\_\_\_

**PERSON(S) AUTHORIZED TO REPRESENT THE OWNER(S) AND TO WHOM ALL  
CORRESPONDENCE IS TO BE SENT:**

Name: Francisco Manzo Phone: (406)261-8256  
Mailing Address: 575 Church Drive  
City, State, Zip Code: Kalispell, MT 59901  
Email: manzo7@yahoo.com

**LEGAL DESCRIPTION OF PROPERTY** (Refer to Property Records):

Street  
Address: 1405 Montana Hwy 35 S 4 T 28N R 21 W  
Subdivision Tract Survey Lot Block  
Name: \_\_\_\_\_ No(s). A17784 No(s). \_\_\_\_\_ No. \_\_\_\_\_

1. **Zoning District and Zoning Classification in which use is proposed (EXAMPLE: Bigfork Zoning District, SAG-5 zoning classification):**

B-3 Evergreen Zoning District

2. **Explain how the proposed use meets all of the required criteria below. ALL CRITERIA MUST BE DISCUSSED. If criteria are not applicable, please explain why. Attach drawings, additional text, site plans, and any other documents that will assist staff in reviewing the proposed use. The more information you can provide, the easier it is for staff to review the application. Please discuss:**

**A. Site Suitability.**

The site is suitable for the use. This includes:

- (1) adequate usable space

*See pg*

- (2) adequate access

*See pg 7*

- (3) absence of environmental constraints

*See pg 7*

**B. Appropriateness of Design.**

The site plan for the proposed use will provide the most convenient and functional use of lot. Consideration of design should include:

- (1) parking scheme

*See pg 8*

- (2) traffic circulation

*See pg 9*

- (3) open space

*see pg 9*

- (4) fencing, screening

*see pg 10*



- (5) landscaping

*see pg 10*

- (6) signage

*see pg 10*

- (7) lighting

*We are in a business district + conform to lighting requirements in sec. 5.12.  
We are not planning on changing the existing lighting on the property. All  
our lighting is downward under the eaves of the building which will not  
affect the surrounding businesses or throw light into the night sky too high.  
There are no residential neighbors close enough to disturb their sleep.*

**C. Availability of Public Services and Facilities**

The following services and facilities are to be available and adequate to serve the needs of the use as designed and proposed:

- (1) sewer

*see pg 10*

- (2) water

*see pg 11*

- (3) storm water drainage

*see pg 11*

- (4) fire protection

*see pg 11*

- (5) police protection

*see pg 11*



- (6) streets

*see pg 11*

**D. Immediate Neighborhood Impact**

The proposed use will not be detrimental to surrounding neighborhoods in general. Typical negative impacts which extend beyond the proposed site include:

- (1) excessive traffic generation

*see pg 12*

- (2) noise or vibration

*see pg 12*

- (3) dust, glare or heat

*see pg 12*

- (4) smoke, fumes, gas, or odors

*see pg 12*

- (5) inappropriate hours of operation

*see pg 13*

3. The following proposed uses shall meet additional requirements, known as "Conditional Use Standards" as outlined in Chapter 4 the Flathead County Zoning Regulations and require consultation with a staff planner PRIOR to application submittal:

- 4.01 Animal Hospitals, Kennels, Animal Shelters, Veterinary Clinics
- 4.02 Bed and Breakfast Establishments/Boarding Houses
- 4.03 Camp or Retreat Center
- 4.04 Caretaker's Facility in AG, SAG, and R-1 Districts
- 4.05 Cluster Housing Development in Residential Districts





- 4.06 Commercial Caretaker's Facility in B-2, B-3, I-1, I-1H, and I-2 Districts
- 4.07 Contractors Storage Yard in AG and SAG Districts
- 4.08 Day Care Centers- 13 or More Individuals
- 4.09 Electrical Distribution Stations
- 4.10 Extractive Industries
- 4.11 Family Hardship Dwellings
- 4.12 Manufactured Home Parks
- 4.13 Mini-Storage, Recreational Vehicle Storage
- 4.14 Motor Coach Subdivisions
- 4.15 Recreational Facilities (see also 7.17.040)
- 4.16 Temporary Uses

Consultation with Planner:

Date \_\_\_\_\_ Planner's Signature N/A

**INSTRUCTIONS FOR CONDITIONAL USE PERMIT APPLICATION:**

1. Answer all questions. Answers should be clear and contain all the necessary information.
2. In answering question 1, refer to the classification system in the Zoning Regulations.
3. In answering questions 2 and 3, be specific and complete. Please use a separate sheet of paper to discuss the appropriate topics.
4. Copy of plot plan/site plan must be submitted with each application, with all existing or proposed structures shown, and distances from each other and from the property line. *If you are submitting a plan larger than 11x17 in size, please include 7 copies.*
5. A **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.
  - *(The buffer should be 150 ft. for all areas with the following exceptions: Administrative Conditional Use Permits, standard Conditional Use Permits, and Planned Unit Development (PUD) applications within the Lakeside Zoning District require a 300 ft. buffer.)*

\*\*\*\*\*  
\*\*\*\*\*

*I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be incorrect or untrue, I understand that any approval based thereon may be rescinded and other appropriate action taken. The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during the approval and development process.*

Applicant Signature

Date



PROPOSED USE

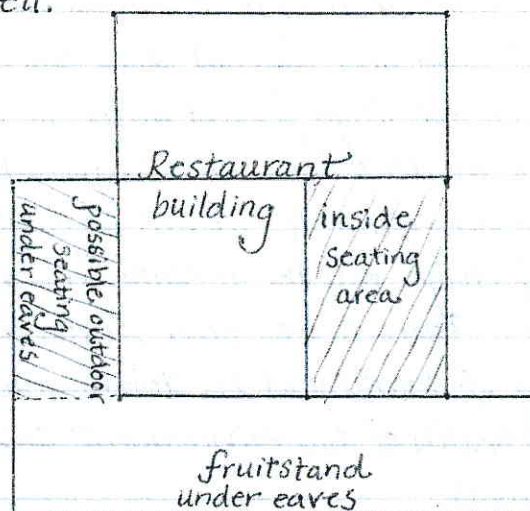
We are preparing to add a Mexican restaurant to our existing fruitstand creating two permitted uses on the same tract of land. The fruitstand being a food store - sec. 3.18.020 (13) and a restaurant - sec. 3.18.020 (26). We are contiplating purchasing a future cabaret license for the restaurant to serve beer with meals.

#2 How the proposed use meets all of required criteria:

A. Site Suitability

(1) adequate useable space

Yes, there is adequate useable space on the property for having both the fruitstand and the restaurant. There are no new structures being proposed. The fruitstand will continue to be outside under the eaves and the restaurant will run in the existing building. We are considering the possibility of outdoor seating under the eaves as well.





(2) adequate access

Yes, there is adequate access to our property.

We currently have four accesses in all; two being from Hwy 2 and two from Hwy 35.

We've decided to close the two accesses closest to the corner (one from Hwy 2 and one from Hwy 35). This will help create more of a flow with our parking and prevent too much congestion right on the corner. The access width is adequate as it was previously paved in with the flare of the curb. We will extend the concrete curb or use another form such as wood to close the <sup>other</sup> two accesses.

(3) absence of environmental constraints

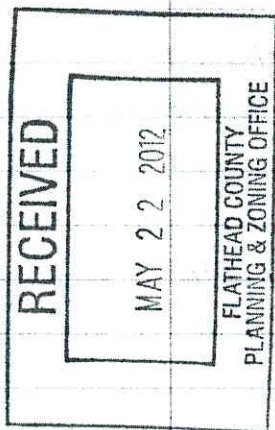
There are no environmental constraints on our property. The site is fully developed without steep slopes over 30%. There are no geological constraints ~ no rock outcroppings/rock falls, etc. The property is mapped with a 500 year flood plain. There are no high voltage power lines or high pressure gas lines. All gas tanks have been dug out after the gas station was closed. High ground water is not an issue since we don't have any rivers, lakes, etc. near by or our own well - we are on public utilities. Our garbage will be in containers with tight-fitting covers. There are no other features that we know of that could be detrimental to safety and health of the environment and people or animals.



## B. Appropriateness of Design

(i) parking scheme (see map page 14)

We have sufficient parking space for our business. We need 13 spaces for 40-50 indoor seating and 3 spaces for approximately 12 outdoor spaces (in case we decide on outdoor seating) according to sec. 6.07.020. We are preparing for the 1,700 ft<sup>2</sup> of fruitstand to have 6 parking spaces according to sec. 6.09.020 since every 300 ft<sup>2</sup> of retail store requires one space. There will be 4 employees on maximum shift that require 4 parking spaces in a designated space (marked with signs) sec. 6.07.020 and sec. 6.13.030. We are preparing for one handicapped space with clear signage and 60 inch space on side according to Americans with Disabilities Act (ADA) and sec. 6.01.010(3). We have a total of 28 parking spaces which exceed our required amounts. All parking will be delineated by painted lines on asphalt. One way traffic will be directed by painted lines. The parking lot will have adequate drainage with drains shown on map p. 14 and as further described in storm water drainage. There will be bumper guards to help define parking spaces. The surface of the whole parking lot is paved. We are preparing to keep only two accesses, one on Hwy 2 and one on Hwy 35.





traffic circulation

- (2) We are preparing to circulate traffic by painting directional arrows for one way traffic as shown on map, page 14. Since traffic is already very busy we don't believe our business will increase traffic, we will just draw out of the existing traffic. The angled parking, marked with painted lines, also helps direct flow since customers need to back and drive forward in one way. The accesses from Hwy 35 and Hwy 2 are far enough away from the corner to prevent congestion.

(3) open space

Since our permitted lot coverage is in lot B-3 Commercial district, the open space doesn't apply to us. Sec. 7.15.020. Our corner lot Sec. 7.12.040 does have the required setbacks according to section 3.18.040 (4A), the front property line being adjacent to U.S. Hwy 2 (West) since it is the shortest of the two lines adjacent to the streets and has the 20ft yard requirements plus 10 ft for being on a major arterial sec. 3.18.040 (4c). We consider Montana Hwy 35 to be a side property line as well as the angled North line and the SW tip between Hwy 2 and Hwy 35 all having more than 5 ft yards. Our back property line is the NE angled line with more than 15 ft. yard.

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(4) fencing, screening

We are not required fencing or screening in B-3 business district, but we are preparing to make a 6ft tall fence on the N.E. property boundary as shown on map page 14 with a line.

(5) landscaping

We are not required landscaping in business district B-3 since we are not near residential property. We have the whole lot paved.

(6) signage

Yes, we are planning on having signage which changes based on what we sell. We are allowed 141 ft<sup>2</sup> wall signs according to our building frontage in sec. 5.11.020. We are also permitted 150 ft<sup>2</sup> of freestanding signs and ground signs combined sec. 5.11.020 (11A). The off-site sign will be removed before the restaurant opens. We understand the setback requirements of the signs as stated in 5.11.020 (3E) as well as sign heights sec. 5.11.020 (7) and distribution sec. 5.11.020 (11A) all of which change based on our needs in season.

(7) lighting see pg 3.

C. Availability of Public Services and Facilities

(1) sewer

Our sewer is a public utility, provided by the city of Evergreen.



(2) water

Our water is also a public utility provided by the city of Evergreen.

(3) storm water drainage

We have good storm water drainage. There will not be any building expansion and the whole lot is paved. Our property is graded for run off to be directed to 2 drains. Even when further up Hwy 2 has huge amounts of water build up our's is clear and the city directs the excess water our direction to drain.

(4) fire protection

We are very close to the Evergreen Fire Department which is only one block up Hwy 2 from us.

(5) police protection

The Flathead County Sheriff is available for our service. We see them driving past us all day long.

(6) Streets

The streets that border us are two main highways, Montana Highway 35 and U.S. Highway 2 (Laselle).



D. Immediate Neighborhood Impact

for neighborhood impact, we are in a business zoning (B-3) and not in a neighborhood so all our answers are based off that.

(1) excessive traffic generation

We do not believe we will generate excessive traffic since the traffic is already VERY busy. We believe our business will be drawing our customers out of the existing traffic.

(2) noise or vibration

We do not have any equipment in our restaurant or in the fruitstand that creates loud noises or vibrations.

(3) dust, glare, or heat

Since our property is paved there will not be dust issues. The glare off our property is not existant or very minor since our windows are under eaves. I don't believe there is a problem for our neighbors with glare. The heat created off our property is created from sun bouncing off the existing pavement that has been there for many years. Since all the surrounding businesses are paved as well I don't believe it will be an issue.

(4) smoke, fumes, gas, or odors

Our business does not emit any smoke, fumes, or gas. The only odors we will be making are the wonderful scents of cooking that we hope to draw our neighbors even closer!

MAR - 6 2012

(5) inappropriate hours of operation

Since our neighbors are all businesses we do not believe our hours will affect anyone negatively. ~ Our tentative fruitstand hours are 9:00 - 5:00 PM and is seasonal,

The restaurant's hours are 10:00 AM - 10:00 PM, but may vary depending on customer flow.

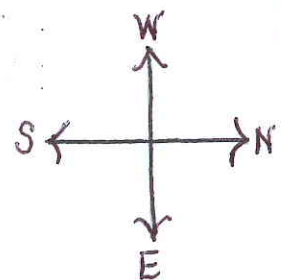


Conditional Use  
Permit Application

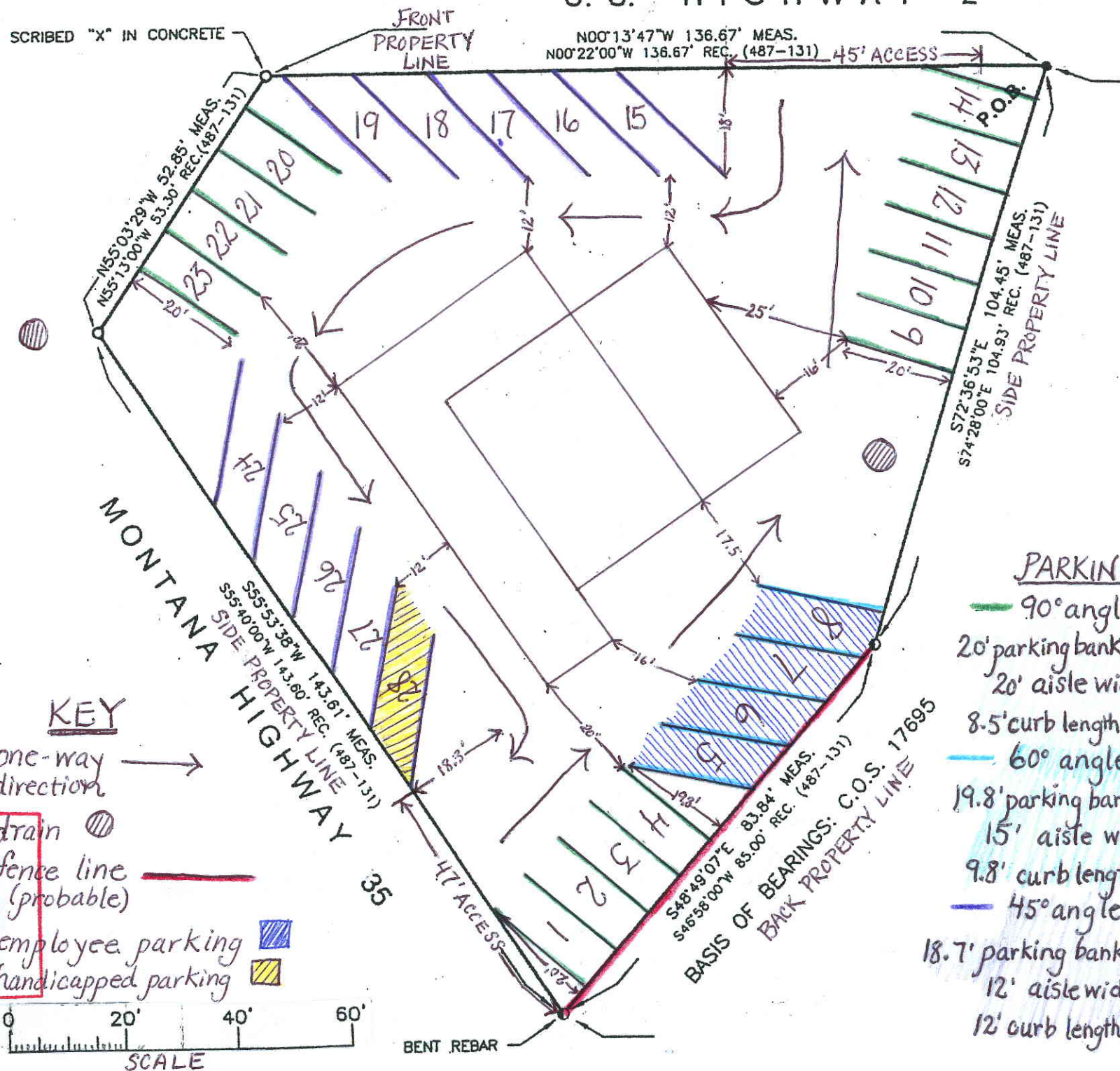
Douglass and Donna  
Miller

Francisco Manzo  
C.O.S.# 17784

page 14



# LASELLE U. S. HIGHWAY 2



## PARKING

- 90° angle
- 20' parking bank width
- 20' aisle width
- 8.5' curb length/car
- 60° angle
- 19.8' parking bank width
- 15' aisle width
- 9.8' curb length/car
- 45° angle
- 18.7' parking bank width
- 12' aisle width
- 12' curb length/car